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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,179	11/03/2003	Peter G. Janssen	JPG-31770-A	3580

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WHYTE HIRSCHBOECK DUDEK S C  
555 EAST WELLS STREET  
SUITE 1900  
MILWAUKEE, WI 53202

EXAMINER
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BAXTER, GWENDOLYN WRENN

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 06/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/700,179	<b>Applicant(s)</b> JANSSEN, PETER G.	
	<b>Examiner</b> Gwendolyn Baxter	<b>Art Unit</b> 3632	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 31-36 and 45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-36, 45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

This is the fourth office action for serial number 09/700,179, Tool-free Hanging Device, filed on June 3, 2004. This application is a continuation of application serial number 10/268,189, filed October 10 2002, now patent 6,641,107.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 31-36 and 45 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 31, lines 11 and 12, recites "at least one of the push plate" imply the use of more than one plate may be utilized. At line 3 only one plate has been positively claimed. Therefore, it is unclear if applicant intends to claim one plate or a plurality of plates. If only one plate is being claimed, then the language should read –the push plate-. If one or more plates is being claimed, then the language should read –at least one of the push plates-.

In claim 31, line 13, "the object hanging position" lacks proper antecedent basis.

In claims 33, 35 and 36, line 1, 2, 2, respectively, "the barb" lacks proper antecedent basis.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 31, 32, and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,255,987 to Gatch, hereinafter Gatch. The present invention reads on Gatch as follows: Gatch discloses a device comprising a push plate (32), a lance (33, 26), and a hanger (16). The lance projects at about a right angle from the push plate. The hanger extends and projects from the push plate. The lance of the hanging device is inserted into a wall (10) by applying a pressing force on the push plate in an axial direction until the hanging device is positioned into a device insertion position. The lance of the hanging device is rotated about the axial direction and in a plane substantially parallel to the wall by exerting a rotational force on at least one of the push plates and the hanger. The lance is rotated from the device insertion position in which the hanger is positioned to receive an object. The hanging device is a unitary structure such that the lance is integral with the push plate and the push plate is fixed relation to the lance and hanger while inserting the lance of the hanging device into the wall. At least one of the inserting and rotating steps is accomplished without the use of a mechanical tool. The hanging device is rotated about 90 degrees at least one of clockwise and counter clockwise about the axial direction.

The method is inherent, since the method is predicated on the structure.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 31, 33 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,880,390 to Niven in view of U.S. Patent No. 5,595,309 to Bauer. The present invention reads on Niven as follows: Niven discloses a device comprising a push plate (16), a lance (26), and a hanger (18). The lance projects at about a right angle from the push plate. The hanger extends and projects from the push plate. The lance of the hanging device is inserted into a wall by applying a pressing force on the push plate in an axial direction until the hanging device is positioned into a device insertion position. The lance of the hanging device is rotated about the axial direction and in a plane substantially parallel to the wall by exerting a rotational force on at least one of the push plates and the hanger. The lance is rotated from the device insertion position in which the hanger is positioned to receive an object. The hanging device is a unitary structure such that the lance is integral with the push plate and the push plate is fixed relation to the lance and hanger while inserting the lance of the hanging device into the wall. The hanger is one of a hook hanger (18), a notch ear hanger and an ear hanger. However, Gatch fails to teach a barb for securing the hanger within or to the wall.

Gatch teaches a hanging device having a barb (27). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the lance as taught by Niven to have incorporated the barb as taught by Gatch for the purpose of preventing movement, especially rotational movement (col. 3, lines 47).

Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niven in view of U.S. Patent No. 4,619,430 to Hogg. Niven teaches the limitations of the base claim, excluding stamping of at least one of the push plate, the lance and the barb.

Hogg teaches the stamping of a plate of a hanging device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the step of making as taught by Niven to have incorporated the method of stamping of at least one push plate, the lance and the barb as taught by Hogg as a conventional method of forming a metal plate.

Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Niven in view of U.S. Patent No. 5,267,718 to Sheehan. Niven teaches the limitations of the base claim, excluding the at least one of bending or cutting of at least one of the push plate, the lance and the barb.

Sheehan teaches the cutting and bending of the plate of the hanging device. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the step of making as taught by Niven to have incorporated the method of at least one bending or cutting of at least one push plate, the lance and the barb as taught by Sheehan as a conventional method of forming a metal plate.

***Response to Arguments***

Applicant's arguments with respect to claims 31-36 and 45 have been considered but are moot in view of the new grounds of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

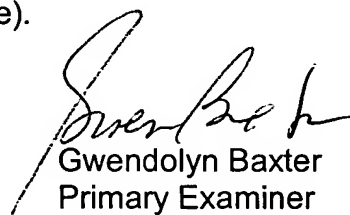
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:00am - 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter  
Primary Examiner  
Art Unit 3632

May 22, 2006